SUPREME COURT OF THE UNITED STATES.

No. 32.

LESSEE OF STEPHEN SICARD ET AL., PLAINTIFF IN ERROR,

VERSUS

NANCY DAVIS ET AL.

IN ERROR TO THE CIRCUIT COURT OF THE U. S. FOR THE KENTUCKY DISTRICT.

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UNITED STATES OF AMERICA, SEVENTH CIRCUIT, KENTUCKY DISTRICT, set.

To John Cecil and Robert Smithers, greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States, to be holden at Washington City on the second Monday in January next, pursuant to a writ of error filed in the clerk's office of the circuit court of the United States for the district of Kentucky, wherein the lessee of Stephen Sicard, James W. Stephens, Joseph Phillips, Elizabeth Phillips, John Phillips, and Mary his wife, Martha and Frances Phillips, Edward Yard, and Abigail his wife, Marshall, and Rachael his wife, James Brisben, and Mary Lucy his wife, and Bertrude Stephens, is plaintiff in error, and you are defendants in error, to shew cause, if any there be, why judgment rendered against the said lessee as aforesaid, as in the said writ of error mentioned, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

Witness my hand, as Judge of the district of Kentucky, and one of the Judges of the seventh circuit court of the United States in and for the district of Kentucky, this 17th day of July, A. D. 1829.

JOHN BOYLE, *J. D. K.*

John Cecil no inhabitant. A copy left at the residence of Robert Smithers; served on Robert Smithers 12th October, 1829.

Mileage, 40 miles - - - - -	$2 00
Do. do. - - - - -	2 00
Serving citation - - - - -	2 00
	$6 00

A. M. CLARK, *Dep. Marshal,*
For J. M. McCalla, M. K. D.

UNITED STATES OF AMERICA, ss.—*To John Cecil and Robert Smithers, greeting:*

You are hereby cited and admonished to be and appear at a Supreme Court of the United States, to be holden at Washington on the first Monday in August next, pursuant to a writ of error filed in the clerk's office of the circuit court of the United States for the district of Kentucky, wherein the lessee of Stephen Sicard, James W. Stephens, Joseph Phillips, Elizabeth Phillips, John Phillips, and Mary his wife, Martha and Frances Phillips, Edward Yard, and Abigail his wife, Marshall, and Rachael his wife, James Brisben, and Mary Lucy his wife, and Bertrude Stephens, is plaintiff in error, and you are defendants in error, to show cause, if any there be, why judgment rendered against the said lessee as aforesaid, as in the said writ of error mentioned, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

Witness the Honorable Robert Trimble, Associate Justice of the Supreme Court of the United States, the second Monday in January, A. D. 1828.

ROBERT TRIMBLE.

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UNITED STATES OF AMERICA, ss.—*The President of the United States to the Judges of the circuit court of the United States for the district of Kentucky, greeting:*

Because in the record and proceedings, as also in the rendition of the judgment of a plea which is in the said circuit court, before you or some of you, between the lessee of Stephen Sicard, James W. Stephens, Joseph Phillips, Elizabeth Phillips, John Phillips, and Mary his wife, Martha Phillips, and Frances Phillips, Edward Yard, and Abigail his wife, Marshall, and Rachael his wife, James Brisben, and Mary Lucy his wife, and Bertrude Stephens, plaintiff, and John Cecil and Robert Smithers, defendants, in ejectment, a manifest error hath happened, to the great damage of the said the lessee of Stephen Sicard and others, as by his complaint appears; we being willing that error, if any hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf, do command you, if judgment be therein given, that then under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Supreme Court of the United States, together with this writ, so that you have the same at Washington on the first Monday of August next, in the said Supreme Court, to be then and there held, that the record and proceedings aforesaid being inspected, the said Supreme Court may cause further to be done therein to correct that error, what of right, and according to the laws and custom of the United States, should be done.

Witness the honorable John Marshall, Chief Justice of the said Supreme Court, this second Monday of January, in the year of our Lord one thousand eight hundred and twenty-eight.

WM. THOS. CARROLL,
Clk. Sup. Ct. U. S.

Know all men by these presents, that we, John T. David, Andrew Curcier, and Joseph R. Purdon, all of the city of Philadelphia, merchants, are held and firmly bound unto John Cecil and Robert Smithers in the full and just sum of two hundred dollars, current money of the United States, to be paid to the said John Cecil and Robert Smithers, their certain attorney, executors, administrators, or assigns; to which payment, well and truly to be made, we bind ourselves, our heirs, executors, and administrators, jointly and severally, by these presents. Sealed with our seals, and dated this sixth day of March, in the year of our Lord one thousand eight hundred and twenty-eight.

Whereas lately at a circuit court of the United States for the district of Kentucky, in a suit depending in said circuit court, wherein the lessee of Stephen Sicard and others was plaintiff, and John Cecil and Robert Smithers were defendants, judgment was rendered against the said lessee of Stephen Sicard and others; and the said lessee, the plaintiff, having obtained a writ of error, and filed a copy thereof in the clerk's office of the said circuit court, to reverse the judgment in the aforesaid suit, and a citation directed to the said John Cecil and Robert Smithers, citing and admonishing to be and appear at a Supreme Court of the United States, to be holden at Washington the first Monday of August next;

Now the condition of the above obligation is such, that, if the said plaintiff shall prosecute his writ to effect, and answer all damages and costs if he

fail to make his plea good, then the above obligation to be void, else to remain in full force and virtue.

JOHN T. DAVID, [L. S.]
ANDREW CURCIER, [L. S.]
JOS. R. PURDON, [L. S.]

Sealed and delivered in presence of
SAM'L G. WALKER.

I believe these sureties to be sufficient. *Philadelphia, 7th March,* 1828.
D. CALDWELL,
Clk. Cir. Ct. Pennsylvania.

Pleas before the Honorable Robert Trimble, one of the Judges of the seventh circuit court of the United States of America, in and for the district of Kentucky, held at the capitol in the town of Frankfort, at the October term of said court, in the year 1824.

Be it remembered that, heretofore, to wit, on the first day of May, in the year 1824, came John Doe, on the demise of Stephen Sicard, by his attorney, into the clerk's office of the court aforesaid, and filed the following declaration in ejectment against Richard Roe, i. e. Jesse Davis, and others, to wit:

UNITED STATES' 7th CIRCUIT, KENTUCKY DISTRICT, to wit.

John Doe, a citizen of the commonwealth of Pennsylvania, complains of Richard Roe, a citizen of the commonwealth of Kentucky, of a plea of trespass and ejectment, wherefore with force and arms, &c. &c. For that whereas the said plaintiff says, that, on the first day of February, in the year 1815, at in the circuit and district aforesaid, Stephen Sicard had demised to him, the said plaintiff, six thousand six hundred and eighty acres of land, with the appurtenances, situate, lying, and being in the circuit and district aforesaid: to have and to hold the said six thousand six hundred and eighty acres of land, with the appurtenances, to the said plaintiff and his assigns, from the 30th day of January then last past, unto the full end and term of twenty years from thence next ensuing, and fully to be complete and ended. By virtue of which said demise, the said plaintiff, on the 2d day of February, 1815, entered into the said 6,680 acres of land, with the appurtenances, and was thereof possessed; and being so possessed thereof, the said defendant, afterwards, to wit, on the 3d day of February, in the said year of 1815, with force and arms, to wit, with swords, &c. &c., entered into the said 6,680 acres of land, with the appurtenances, which the said Stephen Sicard had demised to him for a term, which is yet unexpired, and ejected him out of his said farm, and other wrongs to him then and there did, against the peace and dignity of the United States, and to his damage $10,000, and therefore he sues, &c. &c.
Pledges, &c. &c.

JAS. HUGHES, *att'y for plff.*

To Messrs. Jesse Davis, Walter Bayne, John Redmond, David Lefflin, Cornelius Berdine, and David Poole, citizens of the commonwealth of Kentucky, tenants in possession of the premises, or some part thereof:

I am informed you are in possession of, or claim title to, the premises in this declaration of ejectment mentioned, or some part thereof; and I being

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sued in this action as casual ejector, and having no right or title to the same, do advise you to appear at the next May term of the circuit court of the United States for the seventh circuit for the Kentucky district, to be held at Frankfort on the first day of the term, and cause yourselves to be made defendants in my stead; otherwise I shall suffer judgment to be entered by default, and you will be turned out of possession.

Yours, &c. RICHARD ROE.

February 20, 1815.

On the 8th day of March, 1815, I delivered to Jesse Davis a copy of this declaration in ejectment and notice; on the 9th, delivered to Walter Bayne, John Redmond, David Lefflin, and David Poole, each a copy, and left with the wife of Cornelius Berdine, at his residence, a copy for him.

JAS. CLARKE, *Dep.*
For Rob. Crockett, M. K. D.

And afterwards, to wit, at the May term of the court aforesaid, in the year last aforesaid, came Jesse Davis, Walter Bayne, and John Redmond, by their attorney; and, on their motion, it is ordered that they be admitted defendants, each for themselves, instead of Richard Roe, the casual ejector; that they will immediately appear to the plaintiff's said action, receive a declaration in a plea of trespass and ejectment, confess the lease, entry, and ouster therein supposed, and plead thereto not guilty, and agree to insist upon the title only at the trial; and it is further ordered, that if, upon the trial of the issue, a verdict should be given for the defendants, or the plaintiff should not further prosecute for any other cause than the not confessing the lease, entry, and ouster, that the lessor of the plaintiff shall pay the costs of this prosecution, if the plaintiff himself doth not pay them. Whereupon the defendants, by their attorney, confessed the lease, entry, and ouster in the declaration supposed, and agree to insist upon the title only at the trial, and severally say that they are in no wise guilty of the trespass and ejectment as the plaintiff against him hath declared; and of this they put themselves upon the country, and the plaintiff likewise; therefore let a jury come, &c. And it appearing to the satisfaction of the court, from the marshal's return, that the tenants in possession, David Lefflin, Cornelius Berdine, and David Poole, have been regularly served with a copy of the plaintiff's declaration and notice thereon written; and they failing to appear and plead to the plaintiff's said action, though solemnly called, came not, but made default; it is therefore ordered that, unless they appear here on the first day of the next term of this court, and cause themselves to be made defendants herein, receive a declaration in a plea of trespass and ejectment, confess the lease, entry, and ouster therein supposed, and plead thereto, or that, on failure thereof, judgment will be entered against Richard Roe, the casual ejector, and the writ of habere facias possessionem will be awarded the plaintiff. And it is ordered that the surveyor of county do go on the land in controversy between the parties, on the day of next, if fair, if not, on the next fair day, and then and there survey and lay off the same as either party may direct, having due regard to all deeds and other writing that may be produced, report all matters of fact specially, and return one fair plat and certificate thereof into the clerk's office of this court thirty days at least before

the day of trial; and the marshal, or one of his deputies, is directed to attend the said survey to remove force, should any be offered.

And afterwards, to wit, at the November term of the court aforesaid, in the year last aforesaid, came the tenants, David Lefflin and Cornelius Berdine, by their attorney; and, on his motion, it is ordered that the common order entered up herein against them on the tenth day of the May term, be set aside, and that they be admitted defendants, each for themselves, instead of Richard Roe, the casual ejector; that they will immediately appear to the plaintiff's said action, receive a declaration in a plea of trespass and ejectment, confess the lease, entry, and ouster therein supposed, and plead thereto not guilty, and agree to insist upon the title only at the trial; and it is further ordered that, if upon the trial of the issue, a verdict should be given for the defendants, or the plaintiff should not further prosecute for any other cause than the not confessing the lease, entry, and ouster, that the lessor of the plaintiff shall pay the costs of this prosecution, if the plaintiffs himself does not pay them. Whereupon the said defendants, by their attorney, confessed the lease, entry, and ouster in the declaration supposed, and agree to insist upon the title only at the trial, and severally say that they are in no wise guilty of the trespass and ejectment as the plaintiff against them has declared; and of this they put themselves upon the country, and the plaintiff likewise; therefore let a jury come, &c.

And afterwards, to wit, at the November term of the court aforesaid, in the year 1816, on motion of the plaintiff herein, by their attorney, it is ordered that this cause be continued until the next term, for and at the costs of the said plaintiff. It is therefore considered by the court that the defendants recover of the lessor of the plaintiff their costs herein at the present term expended.

And afterwards, to wit, at the November term of the court aforesaid, in the year 1817, (until which time this cause was continued,) on motion of the plaintiff, by his attorney, it is ordered that he have leave to take depositions generally before any alderman in the city of Philadelphia, upon giving to the adverse party legal notice of the time and place of taking the same; and further proceedings herein are continued until the next term of this court.

And afterwards, to wit, at the May term of the court aforesaid, in the year 1818, came the defendants, by their attorney; and the plaintiffs being solemnly called, came not, but made default, nor is his suit further prosecuted. It is therefore considered by the court that the plaintiff be nonsuited, and that the defendants go hence without day, and recover of the lessor of the plaintiff their costs about their defence in this behalf expended.

And afterwards, to wit, at a subsequent day of the term last aforesaid, and in the year last aforesaid, came the plaintiff, by his attorney, and moved the court to set aside the nonsuit entered up herein at a former day of this term; which motion is ordered to be continued until the next motion day. At which time, to wit, at a subsequent day of the same term, came the plaintiff herein by his attorney; and the court being now sufficiently advised of and concerning his motion, do adjudge and order that the nonsuit entered up at a former day of this term be set aside, and the said suit be reinstated on the issue docket for trial; and further proceedings is continued until the next term of this court.

And afterwards, to wit, at the November term of the court aforesaid, in the year 1820, (until which time this cause was continued,) came the de-

fendants herein, by their attorney; and the plaintiff, although solemnly called, came not, neither is his suit further prosecuted. It is therefore considered by the court that this suit be dismissed for the want of prosecution, and that the defendants go hence without day, and recover of the plaintiff their costs by them about their defence herein expended.

And afterwards, to wit, at a subsequent day of the said term, came the plaintiff, by his attorney, and moved the court to set aside the non-suit entered herein at the present term; but the court not being sufficiently advised thereon, took time, &c.

And afterwards, to wit, at a subsequent day of the same term, the court being now sufficiently advised of and concerning the motion made by the plaintiff to set aside the non-suit entered herein at the present term, do order that the same be set aside. It is further considered by the court that the defendants recover of the lessor of the plaintiffs their costs by them herein expended at the present term; and, on motion of the plaintiff aforesaid, by his attorney, it is ordered that this suit be continued until the next term. Therefore, it is considered by the court that the defendants recover of the lessor of the plaintiff their costs occasioned by reason of this continuance.

And afterwards, to wit, at the May term of the court aforesaid, in the year 1821, on motion of the plaintiff, leave is given him to take the depositions of John Phillips, Samuel Robert Marshall, Joseph Spencer, Benjamin Powell, and George Heyl, de bene esse, before any two justices of the peace, notary public, or mayor of any city, upon giving to the adverse party legal notice of the time and place of taking the same; and further proceedings are continued herein, for and on behalf of the plaintiffs, until the next term. It is therefore considered by the court that the defendants recover of the lessor of the plaintiff their costs at the present term expended.

And afterwards, to wit, at the November term of the court aforesaid, in the year last aforesaid, on motion of the plaintiff's attorney, leave is granted him to amend the declaration herein, by laying a demise in the names of heirs of the original grantee of the commonwealth, or intermediate grantees, on or before the 20th day of January next, and the cause still to stand on the docket for trial at the next term; and on the further motion of the plaintiff, leave is given him to take the depositions of John Phillips, Samuel Robert Marshall, Joseph Spencer, and Benjamin Powell, and George Heyl, de bene esse, upon giving to the adverse party legal notice of the time and place of taking the same; which depositions may be taken before any two justices of the peace, notary public, or mayor of any city. Which amended declaration is in the following words, to wit:

And whereas, afterwards, to wit, on the day and year aforesaid, in the circuit aforesaid, James W. Stephens, and Marshall, and Rachael his wife, and James Brisben, and Mary Lucy his wife, and Bertrude Stephens, all citizens of the State of New York, and Joseph Phillips and Elizabeth Phillips, and John Phillips, and Mary his wife, and Martha Phillips and Frances Phillips, and Edward Yard, and Abigail his wife, all citizens of the State of New Jersey, each by several and distinct leases, except that the said feme coverts suited with their respective husbands, granted, demised, and let to the said John Doe a certain tract of land, situate, lying, and being on the waters of Chaplaine, containing, by estimation, thousand acres, a part thereof being wood land, a part meadow, a part pasture, a part arable, and a part orchard. To have and to hold by the said

John Doe, for and during and until the full end and term of fifty years then next ensuing, fully to be complete and ended.

And afterwards, to wit, at the November term of the court aforesaid, in the year 1822, (until which time this cause was continued,) came the plaintiff herein, by his attorney; and, on his motion, leave is given him to amend the surveyor's report herein. It is therefore ordered that the surveyor of Nelson county or Franklin county do go on the land in controversy between the parties, on the day of next, if fair, if not, on the next fair day, and then and there lay off and survey the same as either party may direct, having due regard to all deeds and other evidence that may be produced, report all matters of fact specially, and return one fair plat and certificate thereof into the clerk's office of this court thirty days at least before the day of trial; and the marshal, or one of his deputies, is directed to attend the said surveyor, to remove force, should any be offered.

And afterwards, to wit, at the October term of the court aforesaid, in the year 1824, (until which time this cause was continued,) came Nancy Davis, tertenant of Jesse Davis, and entered her appearance herein; and, on motion of David Poole, it is ordered that the common order entered up herein against him be set aside, and he be admitted defendant herein instead of Richard Roe, the casual ejector, that he will immediately appear to the plaintiff's action, receive a declaration in a plea of trespass and ejectment, confess the lease, entry, and ouster therein supposed, and agree to insist upon the title only at the trial; and it is further ordered, that if, upon the trial of the issue, a verdict should be given for the defendants, or the plaintiffs should fail further to prosecute for any other cause than the not confessing the lease, entry, and ouster, the lessor of the plaintiff shall pay the costs of this prosecution, if the plaintiff himself does not pay them. Whereupon the said defendants entered into the common rule to receive a declaration in a plea of trespass and ejectment, confess the lease, entry, and ouster therein supposed, and for plea says he is in no wise guilty of the trespass and ejectment, as the plaintiff against him hath declared; and of this he puts himself upon the country, and the plaintiff likewise; therefore let a jury come here, &c. Whereupon came a jury, to wit, Richard Barbour, William Chambers, Benjamin Hensley, Ch. Julian, John D. Lock, William Wood, John Bate, Allen F. Macurdy, Henry Wingate, Joseph Taylor, Walker Sanders, and Samuel Payne, who, being elected, tried, and sworn well and truly to try the issue joined herein, upon their oaths do say, "We of the jury find for the defendants." It is therefore considered by the court that the defendants go hence, and recover against the lessors of the plaintiffs their costs by them about their defence herein expended.

And, afterwards, to wit, at a subsequent day of the term last aforesaid, in the year last aforesaid, ordered that the judgment entered up herein at a former day of this term be set aside; and thereupon came Nancy Davis, tertenant of Jesse Davis, and enters her appearance herein; and, on motion of David Poole, by his attorney, it is ordered that the common order entered up herein against him be set aside, and that he be admitted defendant herein instead of Richard Roe, the casual ejector, that he will immediately appear to the plaintiff's action, receive a declaration in a plea of trespass and ejectment, confess the lease, entry, and ouster therein supposed, and agree to insist upon the title only at the trial. And it is further ordered, that if, upon the trial of the issue, a verdict should be given for the defend-

ants, or the plaintiff should fail further to prosecute for any other cause than the not confessing the lease, entry, and ouster, the lessors of the plaintiff shall pay the costs of this prosecution if the plaintiff himself does not pay them. Whereupon the said defendant entered into the common rule to receive a declaration in a plea of trespass and ejectment, confess the lease, entry, and ouster therein supposed, and for plea says he is in no wise guilty of the trespass and ejectment as the plaintiff against him has declared; and of this he puts himself upon the country, and the plaintiff likewise: therefore let a jury come here, &c. Whereupon came a jury, to wit, Richard Barbour, William Chambers, Benjamin Hensley, Ch. Julian, John D. Lock, William Wood, John Bate, Allen F. Macurdy, Henry Wingate, Joseph Taylor, Walker Sanders, and Samuel Payne, who, being elected, tried, and sworn well and truly to try the issue joined herein, upon their oaths do say, "We, of the jury, find for the defendants."

It is therefore considered by the court that the defendants go hence, and recover against the lessors of the plaintiff their costs by them about their defence herein expended.

Whereupon the plaintiff tendered to the court the following bill of exceptions, which is signed, sealed, and ordered to be entered of record, to wit:

Be it remembered that, on the trial, the plaintiff gave in evidence to the jury the patent to Joseph Phillips, in the words and figures following, (here insert it,) and proved that it covered the land in controversy, and that the defendants were in adverse possession at the time of the commencement of this suit. The plaintiff also offered in evidence the following copies of deeds and their testimonials, (here insert the deed from Phillips to Stephens, from Stephens to Marshall, and from Marshall to Sicard, marked A,) reading the affidavit of Sicard in the words and figures following, to wit, (here insert it, marked 1,) and the receipt of Parker to Sicard as followeth, (here insert, marked 2,) and the affidavits of Alexander Parker and Thomas Wallace, the contents of which were admitted as if proved orally in court, in the words and figures following, (here insert them, marked 3 and 4,) and the depositions of Mary Powell, Joseph Spencer, Abraham Tenbrook, and the deposition of George Heyl, and the deposition of George Rozell, and the deposition of Benjamin Tucker; which depositions were taken in due form, and read in the words and figures following, to wit, (here insert the depositions, endorsed 5, 6, 8, 9,) and the register's certificate in the words following, (here insert it, marked 10) and the plaintiff likewise produced in court the record of deeds from the office of the court of appeals, containing the following deeds and certificates, (here insert them, with the clerk's certificate) and the clerk, being sworn as a witness, stated that the deeds had been recorded by Thomas S. Hinde, his deputy, now living beyond the reach of the process of this court, but he recollected to have noticed them at the time, and they had, so far as he recollected, every appearance of genuine documents; and the plaintiff also introduced Ralph Phillips, who stated that he was long acquainted with Joseph Phillips, and Stephens, and Marshall, and he heard them speak of the conveyance of the tract of land in controversy as made by Phillips to Stephens, and by Stephens to Marshall, many years ago, but he does not recollect to have seen the deeds; he proved that Phillips, and Stephens, and Marshall, and Sicard had always resided in Pennsylvania, New York, and New Jersey: those deeds were shown to cover the land in controversy. It appeared,

ikewise, that Phillips and Stephens both died in the year 1798 or 1799. The defendants gave in evidence patents of the commonwealth, of junior date to that read by plaintiff, proved the boundaries of those junior grants, and that they included the defendants, and gave evidence that they had settled under faith of those junior patents, and held adversely to the patent offered in evidence by the plaintiff; on motion of the defendants, the court rejected the copies of the deeds aforesaid, from Phillips to Stephens, and from Stephens to Marshall, and from Marshall to Sicard, because there was no proof of the execution of the deeds from Phillips to Stephens, or from Stephens to Marshall, so as to let in copies of the original deeds.

The defendant then proved that, in the year 1794, they had adverse possession of the land in controversy, and had continued ever since to hold it adversely accordingly. Whereupon the defendants moved the court to instruct the jury as follows, (here insert their instructions of October term, 1824, marked I,) which instructions were given accordingly. To each of which decisions and instructions, as well in excluding the deeds as in instructing the jury, the plaintiff excepts, praying, &c.

ROBERT TRIMBLE, [SEAL.]

The following are copies of the papers referred to as a part of the foregoing bill of exceptions, to wit:

Patent to Joseph Phillips.

Patrick Henry, Esq., Governor of the commonwealth of Virginia, to all to whom these presents shall come, greeting: Know ye, that, by virtue and in consideration of a Treasury warrant, number eighteen thousand three hundred and forty-three, issued the sixth day of August, one thousand seven hundred and eighty three, also by virtue of part of a Treasury warrant, No. 16,293, issued the 12th day of May, one thousand seven hundred and eighty-three, there is granted by the said commonwealth unto Joseph Phillips a certain tract or parcel of land, containing six thousand six hundred and eighty acres, by survey bearing date the 4th day of May, one thousand seven hundred and eighty-four, lying and being in the county of Jefferson, on the north side of Chaplin's fork, adjoining William Kincheloe's four hundred acre survey, Messrs. Ramsey, Cox, & others, and bounded as followeth, to wit: beginning at three beeches standing on the north bank of said Chaplin's fork, being also southwest corner of Ramsey and Cox's 21,000 acre survey; running thence north 560 poles, with their line, to two beeches and a hickory; thence west 1,467 poles to two beeches; thence north one hundred and eighty-one poles to a sugar tree and beech; thence west 380 poles to an elm and beech; thence south 181 poles to a beech and dogwood; thence east twenty poles to a sugar tree and dogwood, northeast corner to Kincheloe's four hundred acre survey; thence south 253 poles, with the lines of said survey, to two honey locusts; thence west 253 poles to an elm and beech; thence north 253 poles to three beeches, northwest corner to said survey; thence west twenty poles to three beeches; thence south 980 poles to a sugar tree, beech, and poplar, on the north bank of Chaplin's fork; thence up said fork, along the meanders thereof, and binding thereon, to the beginning, with its appurtenances: to have and to hold the said tract or parcel of land, with its appurtenances, to the said Joseph Phillips, and his heirs for ever.

In witness whereof, the said Patrick Henry, Esq., Governor of the Commonwealth of Virginia, hath hereunto set his hand, and caused the lesser

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seal of the said commonwealth to be affixed, at Richmond, on the sixth day of June, in the year of our Lord one thousand seven hundred and eighty-six, and of the commonwealth the tenth.

P. HENRY.

Joseph Phillips is entitled to the within mentioned tract of land.

JOHN HARVIE, *Reg. L. Off.*

Deeds, marked A.

This indenture, made this sixteenth day of October, in the year of our Lord one thousand seven hundred and ninety-seven, between Col. Joseph Phillips, of the township of Maidenhead, in the county of Hunterdon, and State of New Jersey, of the one part, and Benjamin Stephens, of the city of Philadelphia, in the Commonwealth of Pennsylvania, of the other part, witnesseth: That the said Joseph Phillips, for the consideration of one dollar, and other good causes me thereunto moving, do grant, bargain, sell, and convey unto the said Benjamin Stephens, and to his heirs and assigns, all that certain tract or parcel of land lying and being in the county of Nelson, and State of Kentucky, on the north side of Chaplin fork, adjoining William Kincheloe's four hundred acre survey, Messrs. Ramsey and Cox's, and others, and bounded as follows, to wit: beginning at three beeches standing on the north bank of said Chaplin's fork, being also southwest corner of Ramsey and Cox's 21,000 acre survey; running thence north 560 poles, with their line, to two beeches and a hickory; thence west 1,476 poles to two beeches; thence north 181 poles to a sugar tree and beech; thence west 380 poles to an elm and beech; thence south one hundred and eighty-one poles to a beech and dogwood, northeast corner of Kincheloe's 400 acre survey; thence south 253 poles, with the lines of said survey, to two honey locusts; thence west two hundred and fifty-three poles to an elm and beech; thence north two hundred and fifty-three poles to three beeches, northwest corner to said survey; thence west 20 poles to three beeches; thence south nine hundred and eighty poles to a sugar tree, beech, and poplar, on the north bank of Chaplin's fork; thence up said fork, along the meanders thereof, and binding thereon, to the beginning, containing six thousand six hundred and eighty acres of land; which said tract of land was granted, by patent, to the said Joseph Phillips, by Patrick Henry, Governor of the Commonwealth of Virginia, on the 6th day of June, one thousand seven hundred and eighty-six, (reference thereto being had may more fully appear;) together with all and singular the ways, waters, water courses, houses, and every appurtenances whatsoever, thereunto belonging, or in any wise appertaining, or in and to the same, and every part and parcel thereof, and also all the estate of him, the said Joseph Phillips, either in law or equity, of, in, and to the same: to have and to hold all the said premises unto the said Benjamin Stephens, his heirs and assigns, to the only proper use of the said Benjamin Stephens, his heirs and assigns for ever; and the said Joseph Phillips, his heirs, executors, and administrators, covenant with the said Benjamin Stephens, his heirs and assigns, that he, the said Joseph Phillips doth hereby grant all the hereby granted premises, and that he, the said Benjamin Stephens, his heirs and assigns, shall hold and enjoy the said premises, without the lawful let or eviction of him, the said Joseph Phillips, his heirs or assigns, or any person or persons whatsoever, lawfully claiming by, from, or under him or them, or any of them. In wit-

ness whereof, the said Joseph Phillips to these presents set his hand and seal the day and year first above written.

JOSEPH PHILLIPS, [SEAL.]

Sealed and delivered in presence of
JOSEPH SPENCER,
SAMUEL ROBERT MARSHALL,
JOHN PHILLIPS.

Received, the day of the date hereof, the full consideration money of the above deed. Witness my hand.

JOS. PHILLIPS.

JOSEPH SPENCER,
SAMUEL ROBERT MARSHALL,
JOHN PHILLIPS.

NOTE.—The above is a true copy of the original, being interlined, between the fifth and sixth lines from the bottom, with the words, to the only proper use of the said Benjamin Stephens, his heirs and assigns, by Cha. Sankey.

(In the original:) Note. "He, the said Joseph Phillips, doth hereby grant all the," in the fifth line from the bottom, were written on an erasure before the execution of these presents.

CITY OF PHILADELPHIA, ss.

On the eighth day of June, anno Domini one thousand seven hundred and ninety eight, before me, Hilary Baker, mayor of the said city of Philadelphia, in the Commonwealth of Pennsylvania, personally appeared Joseph Spencer, of the said city, merchant, who being duly sworn, deposeth and said, that he saw Joseph Phillips, the grantor in the above written indenture named, sign, seal, and, as his act and deed, deliver the above written indenture; that the name "Joseph Spencer," thereunder subscribed as a witness to the signing, sealing, and delivery thereof, is of his, the said deponent's, proper handwriting; and that he also saw Samuel Robert Marshall and John Phillips severally subscribe their respective names thereunto as witnesses to the signing, sealing, and delivery thereof as aforesaid.

In testimony whereof, I, the mayor aforesaid, have subscribed my name, and caused the seal of the said city to be affixed to these presents, the day and year aforesaid.

[L. S.] HILARY BAKER, *Mayor*.

On the seventeenth day of January, in the year of our Lord one thousand eight hundred and three, I, George Heyl, junior, Notary Public for the Commonwealth of Pennsylvania, duly commissioned and sworn, residing in the city of Philadelphia, do hereby certify and attest unto all to whom it doth or may concern, that the within indenture, or instrument of writing, is a true and faithful copy of the original presented to me, which copy was duly and carefully compared therewith.

In testimony veritatis, I have hereunto set my hand, and affixed my notarial seal, the day and year above written.

GEORGE HEYL, Jr., *Not. Pub.*

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This indenture, the twenty-fifth day of December, in the year of our Lord one thousand seven hundred and ninety-seven, between Benjamin Stephens, of the city of Philadelphia, in the State of Pennsylvania, of the one part, and Samuel Robert Marshall, and Rachael his wife, of the same place, county, and Commonwealth of Pennsylvania aforesaid, of the other part, witnesseth: That the said Benjamin Stephens, for and in consideration of the just and full sum of five shillings, as well as for natural affection, and divers other good causes and considerations me thereunto moving, hath granted, bargained, sold, released, and confirmed, and by these presents doth grant, bargain, sell, release, and confirm, unto them, the said Samuel Robert Marshall, and Rachael his wife, their heirs and assigns for ever, all that certain tract or parcel of land situate, lying, and being in the county of Nelson, late part of Jefferson county, State of Kentucky, late part of Virginia, which said tract of land is butted and bounded as followeth, to wit: beginning at William Kincheloe's four hundred acre survey, Messrs. Ramsey and Coxe's, and others, and at three beeches standing on the north bank of Chaplin's fork, being also southwest corner of Ramsey and Coxe's 21,000 acre survey; running thence north 560 poles, with their line, to two beeches and a hickory; thence west 146 perches to two beeches; thence north 181 poles to a sugar tree and beech; thence west 380 poles to an elm and beech; thence south 181 poles to a beech and dogwood; thence east seventy poles to a sugar tree and dogwood, northeast corner to Kincheloe's 400 acre survey; thence south 253 poles, with the lines of said survey, to two honey locusts; thence west two hundred and fifty-three poles to an elm and beech; thence north two hundred and fifty-three poles to three beeches, northwest corner to said survey; thence west 20 poles to three beeches; thence south 980 poles to a sugar tree, beech, and poplar, on the north bank of Chaplin's fork; thence up said fork, along the meanders thereof, and binding thereon, to the beginning, containing six thousand six hundred and eighty acres; which said land was granted by the State of Virginia, under the hand and seal of their then Governor, Patrick Henry, on the sixth day of June, in the year of our Lord one thousand seven hundred and eighty-six, and was conveyed by the said Governor to Joseph Phillips and his heirs; and he, by his deed bearing date the sixteenth day of October, one thousand seven hundred and ninety-seven, conveyed the same to Benjamin Stephens, reference to said deed and patent being had may more fully and at large appear; together with all and singular the ways, water, water courses, mines, minerals, rights, privileges, and appurtenances whatsoever, thereunto belonging, or in any wise appertaining, as also all the estate, right, interest, claim, and demand whatsoever of him, the said Benjamin Stephens, and his heirs, in law and equity, of, in, and to the same: to have and to hold all the said premises hereby granted premises, with the appurtenances, unto the said Samuel Robert Marshall, and Rachael his wife, their heirs and assigns, to their only proper use and behoof for ever; and the said Benjamin Stephens, and his heirs, all the said premises hereby granted, with the appurtenances, unto the said Robert Marshall, and Rachael his wife, their heirs and assigns, against him, the said Benjamin Stephens, and his heirs and assigns, against all and every other person having or claiming any estate, (except two hundred acres,) right, or interest therein, shall warrant and for ever defend.

In witness whereof, the said parties to these presents have hereunto set their hands and seals, the day and year first above written.

BENJAMIN STEPHENS, [L. S.]

Sealed and delivered in presence of us,
A. VANCLEVE, Jr.,
BENJAMIN POWELL.

The two hundred acres reserved adjoins William Kincheloe's four hundred acres on the east side. Received, the day of the date hereof, the full consideration money of Samuel Robert Marshall, and Rachael his wife, being in full for the above mentioned deed.

BENJAMIN STEPHENS.

Witness at signing,
A. VANCLEVE, Jr.,
BENJAMIN POWELL.

A true copy of the original, by CHA. SANKEY.

CITY OF PHILADELPHIA, ss.

On the fifth day of June, anno Domini one thousand seven hundred and ninety-eight, before me, Hilary Baker, mayor of the said city of Philadelphia, in the Commonwealth of Pennsylvania, personally appeared Aaron Vancleve, jr., of the said city, who, being duly sworn, deposeth and saith, that he saw Benjamin Stephens the grantor in the above written indenture named, sign, seal, and, as his act and deed, deliver the above written indenture; that the name Aaron Vancleve, thereunto subscribed as a witness to the signing, sealing, and delivery, is of his, the said deponent's, proper handwriting; and that he saw Benjamin Powell subscribe his name thereunto as witness to the signing, sealing, and delivery thereof as aforesaid.

In testimony whereof, I, the mayor aforesaid, have subscribed my name, and caused the seal of the said city to be affixed to these presents, the day and year aforesaid.

[L. S.] HILARY BAKER, *Mayor.*

On the seventeenth day of January, in the year of our Lord one thousand eight hundred and three, I, George Heyl, jr., Notary Public for the Commonwealth of Pennsylvania, duly commissioned and sworn, residing in the city of Philadelphia, do hereby certify and attest unto all whom it may concern, that the within indenture or instrument of writing is a true and faithful copy of the original presented to me, which copy was duly and carefully compared therewith.

In testimony veritatis, I hereunto set my hand and affix my notarial seal, the day and year above written.

[L. S.] GEORGE HEYL, Jr., *Not. Pub.*

This indenture, made the twenty-fifth day of May, in the year of our Lord one thousand seven hundred and ninety-eight, between Samuel Robert Marshall, of the city and county of Philadelphia, in the Commonwealth of Pennsylvania, and Rachael his wife, of the one part, and Stephen Sicard, of the same county and commonwealth, of the other part, witnesseth: That the said Samuel Robert Marshall, and Rachael his wife, for and in consideration of the just and full sum of sixteen hundred and twenty dollars, to them in hand well and truly paid, the receipt whereof is hereby ac-

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knowledged, and themselves therewith fully satisfied, contented, and paid, hath granted, bargained, sold, released, and confirmed, and by these presents doth grant, bargain, sell, release, and confirm, unto the said Stephen Sicard, all that tract of land lying and being in the county of Jefferson, now Nelson county, in Virginia, now Kentucky; which said tract was granted by patent under the hand and seal of Patrick Henry, then Governor of Virginia, which said patent bears date the sixth day of June, one thousand seven hundred and eighty-six, and was granted unto Joseph Phillips; and he, by deed bearing date the sixteenth day of October, 1797, conveyed the same to Benjamin Stephens; and he, by deed bearing date the twenty-fifth of December, 1797, conveyed the same to Samuel Robert Marshall, and Rachael his wife; all of which, reference thereunto being had, may more fully and at large appear; together with all and singular the ways, water, water courses, mines, minerals, woods, and all and every appurtenance thereunto belonging, or in any wise appertaining: beginning at three beeches standing on the north bank of Chaplin's fork, being also southwest corner of Ramsey and Coxe's 21,000 acre survey; running thence north five hundred and sixty poles, with their line, to two beeches and a hickory; thence west 1,467 poles to two beeches; thence north one hundred and eighty-one poles to a sugar tree and beech; thence west 380 poles to an elm and beech; thence south one hundred and eighty-one poles to a beech and dogwood; thence east 20 poles to a sugar tree and dogwood, northeast corner to William Kincheloe's 400 acre survey; thence south 253 poles, with the lines of said survey, to two honey locusts; thence west 253 perches to an elm and beech; thence north two hundred and fifty-three poles to three beeches, northwest corner to said survey; thence west twenty poles to three beeches; thence south 980 poles to a sugar tree, beech, and poplar, on the north bank of Chaplin's fork; thence up said fork, along the meanders thereof, and binding thereon, to the beginning, containing six thousand six hundred and eighty acres of land: to have and to hold all the said premises hereby granted, with the appurtenances, unto the said Stephen Sicard, his heirs and assigns, to his and their only proper use and behoof for ever; and the said Samuel Robert Marshall, and Rachael his wife, their heirs, all the said tract of land and premises hereby granted, with the appurtenances, unto the said Stephen Sicard, his heirs, executors, administrators, and assigns, against him, the said Samuel Robert Marshall, and Rachael his wife, and their heirs and assigns, and against all and every other person or persons lawfully having or claiming any estate, right, or interest therein, shall and will warrant and for ever defend, from, by, and under them.

In witness whereof, the parties to these presents have hereunto interchangeably set their hands, and affixed their seals thereto, dated the day and year first above written.

SAMUEL ROBERT MARSHALL, [L. S.]
RACHAEL MARSHALL, [L. S.]

Sealed and delivered in the presence of us,
A. B. VANCLEVE, Jr.,
BENJAMIN POWELL.

There are two hundred acres of the land reserved, which are situated next to William Kincheloe's four hundred acres, on the east side.

Received, the day of the date of the above written indenture, of the above Stephen Sicard, the full consideration money as above mentioned.

SAMUEL ROBERT MARSALL.

A. B. VANCLEVE, Jr.,
BENJAMIN POWELL.

A true copy of the original, by CH. SANKEY.

CITY OF PHILADELPHIA, ss.

Before me, Hilary Baker, Mayor of the city of Philadelphia, came Samuel Robert Marshall, and Rachael his wife, the grantors above named, and acknowledged the above indenture to be their act and deed, and desired the same to be recorded as such; and the woman, being examined apart from her husband, acknowledged that she signed the same of her own free will and accord, and that without the threats of her husband or any other person.

In testimony whereof, I, the said Mayor, have hereunto set my hand, and caused the seal of the mayoralty of the said city to be hereto affixed, the 19th day of July, in the year of our Lord 1798.

HILARY BAKER, *Mayor.*

On the seventeenth day of January, in the year of our Lord one thousand eight hundred and three, I, George Heyl, jr., Notary Public of the Commonwealth of Pennsylvania, duly commissioned and sworn, residing in the city of Philadelphia, do hereby certify and attest unto all whom it doth or may concern, that the within indenture or instrument of writing is a true and faithful copy of the original presented to me, which copy was duly and carefully compared therewith.

In testimony veritatis, I have hereunto set my hand and affixed my notarial seal, the day and year above written.

GEORGE HEYL, Jr., *Not. Pub.*

Affidavit of Stephen Sicard, marked No. 1.

CITY OF PHILADELPHIA, set.

Personally appeared before me, Robert Wharton, Esq., Mayor of the city of Philadelphia, Stephen Sicard, of said city, gentleman, who being duly sworn according to law, on his solemn oath doth depose and say, that he is advised, and does verily believe, that George Heyl, jr., of the city of Philadelphia, Joseph Spencer, of said city, Samuel Robert Marshall, of the city of New York, or its vicinity, John Phillips, now or late of New Jersey, Aaron Vancleve, now or late of New York State, and county of Genesee, and Benjamin Powell, of Philadelphia, or such of them as are living, are material witnesses for him in the several ejectments depending and undetermined in the circuit court of the United States for the 7th circuit for the Kentucky district, in which he is lessor of the plaintiffs, and Jesse Davis and others are defendants, and also in the suit in chancery depending and undetermined in the said court wherein he is complainant, and May and Curd's heirs and others are defendants.

E. SICARD.

Sworn as above before me. In testimony whereof, I have hereunto set my hand, this 8th day of April, A. D. 1816; the word "March"

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erased, and the word "April" interlined, before this probate was signed before me.

ROBERT WHARTON, *Mayor*.

UNITED STATES OF AMERICA, DISTRICT OF KENTUCKY, sct.

Issue commissions to take depositions of the witnesses named in this affidavit, directed to a justice of the peace in and for the county, town, or city wherein the witness or witnesses reside.

Given under my hand as judge of said district, this 7th day of June, 1816.

HARRY JONES.

JOHN H. HANNA, *Clerk, &c. &c.*

Receipt of Parker, marked No. 2.

Received, February 9, 1803, of Mr. Stephen Sicard, three deeds for a certain tract of land lying in Nelson county, and State of Kentucky, on Chaplin's fork; the first, Joseph Phillips to Benjamin Stephens for 6,680 acres of land; the second, Benjamin Stephens to Samuel R. Marshall for said land; the third, Samuel R. Marshall to Stephen Sicard for same; also a certificate of Ralph Phillips concerning the same; all to be recorded in the office at Frankfort in Kentucky.

ALEX. PARKER.

Deposition or affidavit of Wallace, marked No. 3.

The deposition of Thomas Wallace, taken in Frankfort this 1st day of June, 1821, by consent of Geo. M. Bibb, Esq., counsel for the defendants, and James Haggin, Esq., counsel for the plaintiff, to be read in evidence in a suit or suits now depending in the court of the United States in Frankfort, wherein Stephen Sicard is plaintiff, and Cecil Kincheloe and others defendants, sayeth, that Mr. Alexander Parker, of Lexington, did say that, in the summer of 1803, he, said Parker, did leave at the store, or deliver to a young man (probably a Mr. Scott) then living with this deponent, sundry papers, said to be deeds, the property of said Sicard, to be carried from Lexington to Philadelphia by this deponent. This deponent knows nothing of the papers, nor does he ever recollect to have seen them; he has made search for them among his papers, but cannot find them; he verily believes they were not delivered to him; and further he sayeth not.

THOMAS WALLACE.

Affidavit of Alex. Parker, marked No. 4.

To the best of my recollection, I received of Mr. Stephen Sicard, in Philadelphia, in February, 1803, three deeds for a tract of land of 6,680 acres, the first from Jos. Phillips to Benjamin Stephens, the second from said Stephens to Samuel R. Marshall, the third from said Marshall to Stephen Sicard, all for same tract of land, which deeds I believe I receipted for, and which I got recorded in the office of the court of appeals in the following spring, but not certain whether in April or May. Some months after they were admitted to record, I was directed by said Sicard to send said deeds to him in Philadelphia. Some time between the spring of 1803 and August, 1804, I spoke to Mr. Thomas Wallace to carry them to said

Sicard, who agreed to take them, and directed me to leave them with his clerk that evening, as he would pack up his papers that said evening. I enclosed said three deeds in a sheet of paper, directed to said Sicard, which I delivered that evening to said Wallace's clerk, which I believe was William Scott, who promised to deliver them to said Wallace, since which I have never seen them, but have heard that they were lost. Those deeds I believe to be original, and for land in Nelson county, and think on Chaplin's fork. I also paid the taxes on said 6,680 acres of land for several years, and see the entry of said land for taxation in the Auditor's office. I am not certain what became of said Wm. Scott, but I believe that he is deceased, and that he died in Lexington about twelve or fifteen years ago.

ALEX. PARKER.

It is agreed that the above shall be used as testimony in the several cases of Sicard. BIBB.

Depositions, marked 5, 6, 8, 9.

The deposition of Mary Powell, of the city of Philadelphia, State of Pennsylvania, the attendant of a grocery at No. 106, North Seventh street, taken before me, James N. Barker, one of the aldermen of the said city of Philadelphia, on this 20th day of April, 1822, in four suits depending in the circuit court of the United States for the seventh circuit and district of Kentucky, wherein Stephen Sicard is lessor of the plaintiff, and in one of which Jesse Davis, &c. are defendants, in another of which John Cecil, &c. are defendants, in another of which William Morgan, &c. are defendants, and in the fourth of which Jesse Davis, &c. tenants, &c. are defendants.

The said Mary Powell, being of the age of fifty years, and by me carefully examined and cautioned, and sworn to testify the whole truth, on her solemn oath deposeth and saith, that she is not attorney or counsel for either party in the above named suits, nor interested in any way in either of them; that she is the widow of the late Benjamin Powell, of the said city, carpenter; that, as he informed her, her said husband had dealings, in his lifetime, with Doctor Robert Marshall and with Benjamin Stephens, both of the same place, and these dealings were at a period or periods previous to her becoming his wife; and that, from the same source of information thus obtained, she is fully satisfied her husband had, as witness, subscribed a deed to which they, the said Benjamin Stephens and the said Robert Marshall, each, was party, or, at least, that the said Stephen was the seller therein; that her said husband died about two years ago; that, at some time previous to the event, he went out with the late Stephen Sicard, also of the same place, to attest the fact of his, the said Powell's, having subscribed the said deed as a witness to the execution thereof, before a magistrate of Philadelphia, either an alderman or justice of the peace; and from frequent conversations passing in her presence between the said Stephen Sicard and her said husband about the said transaction, she is convinced her said husband had a perfect recollection of having so witnessed, and, at the time of their going out as above mentioned, that such proof making was by him completed before one or other such officers; and lastly, that, during the present spring, and on or about the 20th day of March last past, the same Stephen Sicard deceased, as she was informed and verily believes.

MARY POWELL.

Sworn and subscribed, the 20th April, 1822, before me.

JAS. N. BARKER, *Alderman.*

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CITY OF PHILADELPHIA, COMMONWEALTH OF PENNSYLVANIA, ss.

I, James N. Barker, one of the aldermen of the city of Philadelphia, do hereby certify that the foregoing deposition was taken before me, as in the preamble specified, being entirely written by me in presence of the witness, and subscribed by her in my presence. I further certify, that I am not attorney or counsel for either party, nor interested in either of the suits named; that none of the defendants reside, nor have any agents known to me, within one hundred miles of the place of taking this deposition: the cause of taking which is, that the witness resides more than one hundred miles from the place of the holding of the court in which said suits are pending.

In testimony whereof, I have hereunto set my hand and seal, this 20th day of April, A. D. one thousand eight hundred and twenty-two.

JAMES N. BARKER, [L. S.]

The deposition of Joseph Spencer, late merchant, of the city of Philadelphia, aged about seventy years, taken before me, James N. Barker, one of the aldermen of the city of Philadelphia, on this twentieth day of April, one thousand eight hundred and twenty-two, in four suits depending in the circuit court of the United States for the seventh circuit and district of Kentucky, wherein Stephen Sicard is lessor of the plaintiff, and in one of which Jesse Davis, &c., are defendants, in another of which John Cecil, &c., are defendants, in another of which Wm. Morgan, &c., are defendants, and in the fourth of which Jesse Davis, &c., tenants, &c., are defendants. Joseph Spencer, formerly a merchant, of the city of Philadelphia, and now residing therein, being of the age of seventy years, being by me carefully examined and cautioned, and solemnly affirmed to testify the whole truth, on his solemn affirmation saith, that he has some recollection of having witnessed an instrument of writing, supposed by him to be a conveyance of land, but it not being known to him to whom granted thereby, at the house of Jonathan Phillips, deceased, of Maidenhead, now Lawrence township, Hunterdon county, State of New Jersey, at that place, some twenty years ago or more, and of his meeting again one or more of the family; he believes Doctor Joseph Phillips, of that place or neighborhood, in the said county of Hunterton, was one, in the city of Philadelphia, at the office of Hilary Baker, who was then mayor of the said city, to authenticate the handwriting to the said instrument of as party or witness, or both, but has no certain date in his memory whereby he can be more particular.

JOS. SPENCER.

Sworn and subscribed, the 20th April, A. D. 1822, before me.

JAMES N. BARKER, *Alderman.*

CITY OF PHILADELPHIA, COMMONWEALTH OF PENNSYLVANIA, set.

I, James N. Barker, one of the aldermen of the city aforesaid, do hereby certify that the foregoing deposition was taken before me as in the preamble specified, being entirely written by me in the presence of the witness, and subscribed by him in my presence. I further certify, that I am not attorney or counsel for either party, nor interested in either of the suits named; that none of the defendants reside, nor have any agent known to

me, within one hundred miles of the place of taking this deposition: the cause of taking which is, that the witness resides more than one hundred miles from the place of the holding of the court in which said suits are pending.

In testimony whereof, I have hereunto set my hand and seal, the 20th day of April, one thousand eight hundred and twenty-two.

JAMES N. BARKER, [SEAL.]

PHILADELPHIA COUNTY, set.

I, Matthew Randall, prothonotary of the court of common pleas for the city and county of Philadelphia, do certify that James N. Barker, Esq., before whom the above attestation is made, and who has thereto subscribed his name, was, at the time of so doing, and still is, an alderman of the said city, duly commissioned and qualified, to all whose acts as such full faith and credit is and ought to be given, as well in courts of justice as elsewhere.

In testimony whereof, I have hereto set my hand and affixed the seal of said court, at Philadelphia, the 20th day of April, A. D. 1822.

MATTHEW RANDALL.

The deposition of Abraham Tenbrook, of the city of Philadelphia, State of Pennsylvania, counsellor at law, taken before James N. Barker, Esq., one of the aldermen of said city, at his office therein, on the 20th day of April, in the year of our Lord one thousand eight hundred and twenty-two, in four suits depending in the circuit court of the United States for the seventh circuit and district of Kentucky, wherein Stephen Sicard is plaintiff, and in one of which Jesse Davis, &c., are defendants, in another of which John Cecil, &c., are defendants, in another of which Wm. Morgan, &c., are defendants, and in the fourth of which Jesse Davis, &c., tenants, &c., are defendants. The said Abraham Tenbrook being, as he states, of the the age of fifty years and upwards, and by me, the said James N. Barker, carefully examined and cautioned, and sworn to testify the whole truth, on his solemn oath deposeth and saith, that he is not attorney or counsel for either party in the above named suits, or either of them; that from his own experience on the subject of Wills' depository, in the State of New Jersey, as well as other sources of information relating thereto, obtained in the office and elsewhere, the prerogative courts' office is the sole one for their keeping, and not the different counties surrogate officers, to which exemplification from the general office are returned for the carrying on there of the said Will's administration; that such has, he always understood, been the regulation of law there ever since New Jersey became one of the United States, as the sure teste, and he is well assured remains unaltered in this feature of the system.

That the said deponent was present in the said general office, while the register thereof, Daniel Coleman, Esq., (also, and his predecessors in that office, exercising, and during all the period aforesaid having held the farther post of Secretary of the State of New Jersey,) searched on the subject contained in his certificate under that office seal of the 12th instant, and that he assisted in the same search; that they commencing it with, as he officially certifies the same search was done, 1797: it was extended thence to the current year by the said register. That Stephen Sicard, the above stated plaintiff, died the present spring, to wit, on the 19th day of March; his widow, Elizabeth Sicard, survived him only until the 7th instant, and that

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they left the following and no other issue, viz: Mary, the wife of John T. David, Julia Sicard, and Eliza Sicard, their three daughters, and son Stephen, in contradistinction from his said father known as Stephen Sicard, jr., (all four such issue being still alive) and that the said late Stephen Sicard, now deceased, retained until his death, and did, not many months before it, in an argument in which this said deponent was present, defend the propriety of retaining his early signature, used, as he declared, by him in France, of E. for Etienne, and never, as far as said deponent knows, exchanged it in his name signings for that of Stephen, or its abbreviation in English of S. Sicard. That Major John Phillips, of Hunterdon county, State of New Jersey, a subscribing witness to the deed of the by the aforesaid Coleman, certified of Col. Joseph Phillips as deceased, is in very bad health, as all whom deponent saw in his way up, forgetting his alteration, and conversed with about him, informed this deponent, the said John's precarious situation in this respect admitted not of his leaving home; and his deposition therefore was, by Daniel Cook, Esq., a publicly known, and by all around him understood to be a commissioned judge of that county of Hunterdon court of common pleas, taken at the said witness's own house, as to the same deeds and attestation by him the said John; and that the seal of the said county court of common pleas to the said Cook's being and acting, and duly commissioned such member of the said court, would have required a forty miles' extra journeying, in order to a procurement of that testimonial at the hand of the clerk having that seals custody at Flemington.

A. TENBROOK.

CITY OF PHILADELPHIA, ss.

I, James N. Barker, one of the aldermen of the said city, in the State of Pennsylvania, do hereby certify that the foregoing deposition was taken before me, as in the preamble is specified, being entirely written and subscribed by the witness in my presence. I further certify, that I am not attorney or counsel for either party, nor interested in either of the suits named; that none of the defendants reside, nor have any agent known to me, within one hundred miles of the place of taking this deposition, the cause of taking which is, that the witness resides more than one hundred miles from the place of the holding of the court in which said suits are pending.

JAMES N. BARKER, *Ald'n.* [L. S.]

Deposition, marked No. 6.

The deposition of George Heyl, of the city of Philadelphia, State of Pennsylvania, Notary Public for the Commonwealth of Pennsylvania in and for the said city, taken before Robert Wharton, Mayor of the city of Philadelphia, in the State house, on this seventeenth day of April, in the year of our Lord one thousand eight hundred and twenty-two, in four suits depending in the circuit court of the United States for the seventh circuit and district of Kentucky, wherein Stephen Sicard is plaintiff, and in one of which Jesse Davis, &c., are defendants, in another of which John Cecil, &c., are defendants, in another of which William Morgan, &c., are defendants, and in the fourth of which Jesse Davis, &c., tenants, &c., are defendants. The said George Heyl, being of the age of fifty years and upwards, and by me carefully examined, cautioned, and sworn to testify the

whole truth, on his solemn oath deposeth and saith: That he was called on in his official capacity, on the seventeenth day of January, anno Domini eighteen hundred and three, to certify and attest to three several copies of original deeds, one a copy of a deed from Joseph Phillips to Benjamin Stephens, dated the 16th day of October, 1797, one of a deed from Benjamin Stephens to Samuel Robert Marshall, dated 25th day of December, 1797, and the third of a deed from Samuel Robert Marshall, and Rachael his wife, to Stephen Sicard, dated the 25th day of May, 1798, all for a certain tract or parcel of land, lying and being in the county of Jefferson, now Nelson county, in Virginia, now Kentucky, on the north bank of Chaplin's fork, containing 6,680 acres of land; and that he, the said George Heyl, did, at the request of Stephen Sicard, the last of the above mentioned grantees, examine and compare the said three several copies with the original deeds submitted to him by the said Stephen Sicard for that purpose, and found them to be true and faithful copies of the same; all which he certifies under his hand and seal of office; that the said deeds, with which he compared the said copies, appeared to him, in every respect, original, fair, and genuine papers, the parchment, ink, signatures, &c., wearing that aspect. That the said Stephen Sicard told him, at the time, that his motive for desiring notarial copies of said originals was, that he was going to send said originals to Kentucky to be recorded. That the said deponent had a knowledge of the signature of Hilary Baker, the Mayor of the city, before whom they were proved, and of the seal of the city, and believed them genuine; that, in the spring of the year 1818, the said Stephen Sicard again called on him, and took his deposition before alderman Douglass, at his (the alderman's) office in this city, to the above fact, to which deposition were annexed the said three notarial certified copies, and a mandate from the 7th circuit court of the United States for the Kentucky district to the said Douglass, to take the same—all of which this deponent understood were transmitted to the said court; and that the annexed two copies of deeds, so certified by the clerk of said court, to the best of his knowledge and belief, are copies of his said notarial copies of the said originals; that he is neither attorney nor counsel for either party in either suits named, nor interested in any way in them. And further this deponent saith not.

Sworn to before me, the 17th day of April, 1822.

GEORGE HEYL,
Formerly George Heyl, Jr.

CITY OF PHILADELPHIA, ss.

I, Robert Wharton, Mayor of the city of Philadelphia aforesaid, in the State of Pennsylvania, do hereby certify that the foregoing deposition was taken before me, as in the preamble specified, being entirely written and subscribed by the witness in my presence. I further certify, that I am not attorney or counsel for either party, nor interested in either of the suits named; that none of the defendants reside, nor have any agent known to me, within one hundred miles of the place of taking this deposition; the cause of taking which is, that the witness resides more than one hundred miles from the place of the holding of the court in which the suits are pending.

In witness whereof, I have hereunto set my hand, and caused the seal of the city to be affixed, the day and year within mentioned.

ROBERT WHARTON, *Mayor.*

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Deposition, marked No. 8.

STATE OF NEW JERSEY, CITY OF TRENTON, sct.

The deposition of George Rozell, coachmaker, of the said city of Trenton, in the State of New Jersey, taken at the office of Robert McNeeley, Esq., Mayor of the said city, in four suits, &c., pending in the circuit court of the United States for the seventh circuit and district of Kentucky, in which Stephen Sicard is plaintiff's lessor, and in one of which Jesse Davis, &c., are defendants, and another of which John Cecil, &c., are defendants, in another of which William Morgan, &c., are defendants, and in the fourth of which Jesse Davis, &c., tenants, &c., are defendants. The said George Rozell, being of the age of fifty-six years, and by me carefully examined and cautioned, and sworn to testify the whole truth, deposeth and saith: That he is not attorney or counsel for either party in any of the above named suits, nor in any way interested in either of them. That this deponent, in early life, lived in the township of Maidenhead, county of Hunterdon, and State of New Jersey, in which township Col. Joseph Phillips then resided; that the said Joseph Phillips died there on or about twenty years ago; that he left children as follows, to wit, Doctor Joseph Phillips, one daughter named Elizabeth, wife of Elias Phillips, Esq., both deceased, and left issue two sons and two daughters, Ruth Phillips, remaining unmarried, and the wife of William Vanhart; and the said Joseph Phillips left other issue, as follows: Mary, who married Major John Phillips, Frances, who married Wm. T. Phillips, and Martha Phillips remaining single, Abigail, the late wife of Edward Yard, Esq. That the said Doctor Joseph Phillips, and all the daughters but the said Abigail, are, as he believes, still living; that the said Abigail left issue by her said husband, who are minors, the oldest at most twelve years or under; that the said Col. Joseph Phillips and Benjamin Stephens were surveyors, and this deponent understands they were in the practice of locating, and otherwise taking up lands in what is now called the western country.

GEORGE ROZELL.

Sworn and subscribed at the said city of Trenton, this fifteenth day of April, eighteen hundred and twenty-two, before me.

ROBERT McNEELEY,
Mayor of Trenton.

CITY OF TRENTON, sct.

I, Robert McNeeley, Mayor of the said city of Trenton, in the State of New Jersey, do hereby certify that the foregoing deposition was taken before me as in the preamble specified, being entirely written by me in the presence of the witness, and subscribed by him in my presence. I further certify, that I am not attorney or counsel for either party, nor interested in either of the suits named; that none of the defendants reside, nor have any agent known to me, within one hundred miles of the place of taking this deposition; the cause of taking which is, that the witness resides more than one hundred miles from the place of the holding of the court in which said suits are pending.

In witness whereof, I have hereunto set my hand and caused the seal of the said city to be affixed, the said fifteenth day of April, in the year of our Lord eighteen hundred and twenty-two.

ROBERT McNEELEY,
Mayor of Trenton.

Deposition, marked No. 9.

The deposition of Benjamin Tucker, of the city of Philadelphia, taken before John Hallowell, president of the county of common pleas in and for the first judicial district of the commonwealth of Pennsylvania, consisting of the city and county of Philadelphia, at his house, southeast corner of Fifth and Chesnut streets, in the said city of Philadelphia, on this sixteenth day of April, in the year of our Lord 1823, in four suits pending in the circuit court of the United States for the seventh circuit and district of Kentucky, wherein the lessee of Stephen Sicard and others is plaintiff, and in one of which Jesse Davis, &c., are defendants, in another of which John Cecil, &c., are defendants, in another of which Wm. Morgan, &c., are defendants, and in the fourth of which Jesse Davis, &c., tenants, &c., are defendants. The said Benjamin Tucker, being of the age of fifty-four years, and by me carefully examined and cautioned, and affirmed to testify the whole truth, being a member of the society of Friends, sometimes called Quakers, and conscientiously scrupulous of taking an oath, on his solemn affirmation deposeth and saith: That he is not attorney or counsel for either party in the above named suits, nor interested in any way in either of them; that he was intimately acquainted with the late Stephen Sicard, of the said city of Philadelphia, from the year 1797, inclusive, down to the day of his death, and can well recollect his residence during the said period; that the said Stephen Sicard resided, during the whole of said period, in the said city of Philadelphia and its vicinage, say within fourteen miles, and that he is well satisfied that the said Stephen was never in the State of Kentucky during the said period, nor has he any reason to be believed, from any circumstances that has come to his knowledge during their long acquaintance, that he was ever in that State at all; that the said Stephen died in February of the last year, in the said city of Philadelphia; and further this deponent saith not.

BENJAMIN TUCKER.

I, John Hallowell, president judge of the court of common pleas in and for the first judicial district of the Commonwealth of Pennsylvania, consisting of the city and county of Philadelphia, do hereby certify that the foregoing deposition was taken before me, as in the preamble to the said deposition is particularly specified, being entirely written and subscribed by the witness in my presence; and I further certify, that I am not attorney or counsel for either party, nor interested in either of the suits named; that none of the defendants reside, nor have any agent known to me, within one hundred miles of the place of taking this deposition; the cause of taking which, that the witness resides more than one hundred miles from the place of holding of the court in which the suits are pending.

JOHN HALLOWELL.

Recorder's certificate, marked No. 10.

PHILADELPHIA, 8 *mo. 30th*, 1821.

I hereby certify that, agreeably to the record kept by me, Benjamin Powell was buried in Friends' burying ground, on Mulberry street, Philadelphia, 4th month 1st, 1820.

ELIHU PICKERING,

Recorder of births and burials, appointed by the monthly meeting of Friends of Philadelphia for the Northern district.

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Record of deeds from court of appeals, with the clerk's certificate.

Phillips to Stephens. Deed.

This indenture, made this sixteenth day of October, in the year of our Lord one thousand seven hundred and ninety-seven, between Col. Joseph Phillips, of the township of Maidenhead, in the county of Hunterdon, and State of New Jersey, of the one part, and Benjamin Stephens, of the city of Philadelphia, in the Commonwealth of Pennsylvania, of the other part, witnesseth: That the said Joseph Phillips, for the consideration of one dollar, and other good causes me thereunto moving, do grant, bargain, sell, and convey unto the said Benjamin Stephens, and his heirs and assigns, all that certain tract or parcel of land lying and being in the county of Nelson, and State of Kentucky, on the north side of Chaplin's fork, adjoining Wm. Kincheloe's 400 acre survey, Messrs. Ramsey and Cox's, and others, and bounded as follows, to wit: beginning at three beeches standing on the north bank of said Chaplin's fork, being also southwest corner of Ramsey and Coxe's 21,000 acre survey; running thence north 560 poles, with their line, to two beeches and a hickory; thence west 1,467 poles to two beeches; thence north 181 poles to a sugar tree and beech; thence west 380 poles to an elm and beech; thence south 181 poles to a beech and dogwood; thence east 20 poles to a sugar tree and dogwood, northeast corner to Kincheloe's 400 acre survey; thence south 253 poles, with the lines of said survey, to two honey locusts; thence west 253 poles to an elm and beech; thence north 253 poles to three beeches, northwest corner to said survey; thence west 20 poles to three beeches; thence south 980 poles to a sugar tree, beech, and poplar, on the north bank of Chaplin's fork; thence up said fork, along the meanders thereof, and binding thereon, to the beginning, containing six thousand six hundred and eighty acres of land, (which said tract of land was granted by patent to said Joseph Phillips, by Patrick Henry, Governor of the Commonwealth of Virginia, on the 6th day of June, 1786, reference thereunto being had may more fully appear,) together with all and singular the ways, waters, water courses, houses, and every appurtenance whatsoever thereunto belonging, or in any wise appertaining, of, in, and to the same, and every part and parcel thereof, and also all the estate of him, the said Joseph Phillips, either in law or equity, of, in, and to the same: to have and to hold all the said premises unto the said Benjamin Stephens, his heirs and assigns, to the only proper use of the said Benjamin Stephens, his heirs and assigns for ever; and the said Joseph Phillips, his heirs, executors, and administrators, covenants with the said Benjamin Stephens, his heirs and assigns, that he, the said Joseph Phillips, doth hereby grant all the hereby granted premises, and that he, the said Benjamin Stephens, his heirs and assigns, shall hold and enjoy the said premises without the lawful let or eviction of him, the said Joseph Phillips, his heirs or assigns, or any person or persons whatsoever lawfully claiming by, from, or under him or them, or any of them.

In witness whereof, the said Joseph Phillips hath to these presents set his hand and seal, the year first above written.

JOSEPH PHILLIPS, [SEAL.]

Signed, sealed, and delivered in the presence of.

NOTE.—The words, "he, the said Joseph Phillips, doth hereby grant

all the," in the fifth line from the bottom, were written on an erasure before the execution of these presents.

JOSEPH SPENCER,
SAML. ROBERT MARSHALL,
JOHN PHILLIPS.

Received, the day of the date hereof, the full consideration money for the above deed. Witness my hand.

JOS. PHILLIPS.

JOSEPH SPENCER,
SAMUEL ROBERT MARSHALL,
JOHN PHILLIPS.

CITY OF PHILADELPHIA, ss.

On the eighth day of June, anno Domini one thousand seven hundred and ninety-eight, before me, Hilary Baker, Mayor of the said city of Philadelphia, in the Commonwealth of Pennsylvania, personally appeared Joseph Spencer, of the said city, merchant, who, being duly sworn, deposeth and saith: That he saw Joseph Phillips, the grantor in the above written indenture named, sign, seal, and, as his act and deed, deliver the above written indenture; that the name Joseph Spencer, thereunto subscribed as a witness to the signing, sealing, and delivery thereof, is of his, the said deponent's, proper handwriting; and that he also saw Samuel Robert Marshall and John Phillips severally subscribe their respective names thereunto as witness to the signing, sealing, and delivery thereof as aforesaid.

In testimony whereof, I, the said mayor aforesaid, have subscribed my name, and caused the seal of the said city to be affixed to these presents, the day and year aforesaid.

[L. S.] HILARY BAKER, *Mayor.*

STATE OF KENTUCKY, sct.

I, Achilles Sneed, clerk of the court of appeals for the State aforesaid, being duly authorized by law to receive and admit to record deeds and other writing in my office, do hereby certify that the foregoing deed, with the testimonials thereto annexed, were produced to me in my office in Frankfort, on the 23d day of April, one thousand eight hundred and three, and that the same are truly recorded.

In testimony whereof, I have hereto subscribed my name and affixed my seal of office, the day and year aforesaid.

A copy. Teste, ACHILLES SNEED, *C. C. D.*
A. W. WALKER, *D. C. for Achilles Sneed, C. C. D.*

This indenture, made the twenty-fifth day of December, in the year of our Lord one thousand seven hundred and ninety-seven, between Benjamin Stephens, of the city of Philadelphia, and county of Philadelphia, in the State of Pennsylvania, of the one part, and Samuel Robert Marshall, and Rachael his wife, of the same place, county, and commonwealth of Pennsylvania aforesaid, of the other part, witnesseth: That the said Benjamin Stephens, for and in consideration of the just and full sum of five shillings, as well as for natural affection, and divers other good causes and considera-

tions me thereunto moving, hath granted, bargained, sold, released, and confirmed, and by these presents doth grant, bargain, sell, release, and confirm, unto them, the said Samuel Robert Marshall, and Rachael his wife, their heirs and assigns for ever, all that certain tract or parcel of land, situate, lying, and being in the county of Nelson, late part of Jefferson county, State of Kentucky, late part of Virginia, which said tract of land is butted and bounded as followeth, to wit: beginning at William Kincheloe's four hundred acre survey, Messrs. Ramsey and Coxe's, and others, and at three beeches standing on the north bank of Chaplin's fork, being also southwest corner of Ramsey and Coxe's 21,000 acre survey; running thence north 560 poles, with their line, to two beeches and a hickory; thence west 1,467 perches to two beeches; thence north one hundred and eighty-one poles to a sugar tree and beech; thence west 880 poles to an elm and beech; thence south 181 poles to a beech and dogwood; thence east twenty poles to a sugar tree and dogwood, northeast corner to Kincheloe's 400 acre survey; thence south two hundred and fifty-three poles, with the lines of said survey, to two honey locusts; thence west two hundred and fifty-three poles to an elm and beech; thence north two hundred and fifty-three poles to three beeches, northwest corner to said survey; thence west 20 poles to three beeches; thence south 980 poles to a sugar tree, beech, and poplar, on the north bank of Chaplin's fork; thence up said fork, along the meanders thereof, and binding thereon, to the beginning, containing six thousand six hundred and eighty acres, (which said land was granted by the State of Virginia, under the hand and seal of their then Governor, Patrick Henry, on the 6th day of June, in the year of our Lord 1786, and was conveyed by the said Governor to Joseph Phillips, and his heirs, and he, by his deed bearing date the sixteenth day of October, 1797, conveyed the same to Benjamin Stephens, reference to said deed and patent being had may more fully and at large appear,) together with all and singular the ways, waters, water courses, mines, minerals, rights, privileges, and appurtenances whatsoever, thereunto belonging, or in any wise appertaining, also all the estate, right, interest, claim, and demand whatsoever of him, the said Benjamin Stephens, and his heirs, in law and equity, of, in, and to the same: to have and to hold all the said premises hereby granted premises, with the appurtenances, unto the said Samuel Robert Marshall, and Rachael his wife, their heirs and assigns, to their only proper use and behoof for ever; and the said Benjamin Stephens, and his heirs, all the said premises hereby granted, with the appurtenances unto the said Robert Marshall, and Rachael his wife, their heirs and assigns, against him, the said Benjamin Stephens, and his heirs, and against all and every other person having or claiming any estate, (except two hundred acres,) right or interest therein, shall warrant and for ever defend.

In witness whereof, the said parties to these presents have hereunto set their hands and seals, the day and year first above written.

BENJAMIN STEPHENS, [L. S.]

The above two hundred acres reserved adjoins William Kincheloe's four hundred acres, on the east side.

Sealed and delivered in the presence of us.

A. VANCLEVE, Jr.,
BENJAMIN POWELL.

Received, the day of the date hereof, the full consideration money of Samuel Robert Marshall, and Rachael his wife, being in full for the above mentioned deed.

BENJAMIN STEPHENS.

Witness at signing—
A. VANCLEVE, Jr.,
BENJ. POWELL.

CITY OF PHILADELPHIA, ss.

On the fifteenth day of June, anno Domini one thousand seven hundred and ninety-eight, before me, Hilary Baker, mayor of said city of Philadelphia, in the commonwealth of Pennsylvania, personally appeared Aaron Vancleve, jr., of the said city, who, being duly sworn, deposeth and saith: That he saw Benjamin Stephens, the grantor in the above written indenture named, sign, seal, and, as his act and deed, deliver the above written indenture; that the name Aaron Vancleve, thereunto subscribed as a witness to the signing, sealing, and delivery thereof, is of his, the said deponent's, proper handwriting, and that he saw Benjamin Powell subscribe his name thereunto as a witness to the signing, sealing, and delivery as aforesaid.

In witness whereof, I, the mayor aforesaid, have subscribed my name, and caused the seal of the said city to be affixed to these presents, the day and year aforesaid.

[L. S.] HILARY BAKER, *Mayor.*

STATE OF KENTUCKY, ss.

I, Achilles Sneed, clerk of the court of appeals for the State aforesaid, being duly authorized by law to receive, admit, and record deeds and other writings in my office, do hereby certify that the foregoing deeds, with the testimonials thereto annexed, were produced to me in my office in Frankfort, on the twenty-third day of April, one thousand eight hundred and three, and that the same are truly recorded.

In testimony whereof, I have hereunto subscribed my name, and affixed my seal of office, the day and year aforesaid

[L. S.] ACHILLES SNEED, *C. C. D.*
A copy. Teste, A. W. WALLER, *D. C.*,
For Achilles Sneed, C. C. A.

Marshall et ux. to Sicard. Deed.

This indenture, made the twenty-fifth day of May, in the year of our Lord one thousand seven hundred and ninety-eight, between Samuel Robert Marshall, of the city and county of Philadelphia, in the commonwealth of Pennsylvania, and Rachael his wife, of the one part, and Stephen Sicard, of the same county and commonwealth, of the other part, witnesseth: That the said Samuel Robert Marshall, and Rachael his wife, for and in consideration of the just and full sum of sixteen hundred and twenty dollars to them in hand paid, well and truly paid, the receipt whereof is hereby acknowledged, and themselves truly satisfied, contented, and paid, hath granted, bargained, sold, released, and confirmed, and by these presents doth grant, bargain, sell, release, and confirm, unto him, the said Stephen Sicard,

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all that tract or parcel of land lying and being in the county of Jefferson, now Nelson county, in Virginia, now Kentucky; which said tract was granted by patent under the hand and seal of Patrick Henry, then Governor of Virginia, which said patent bears date the sixth day of June, one thousand seven hundred and eighty-six, and was granted unto Joseph Phillips; and he, by deed bearing date the sixteenth day of October, one thousand seven hundred and ninety-seven, conveyed the same to Benjamin Stephens; and he, by deed bearing date the twenty-fifth day of December, one thousand seven hundred and ninety-seven, conveyed the same to Samuel Robert Marshall, and Rachael his wife; all which, reference thereunto being had, may more fully and at large appear; together with all and singular the ways, waters, water courses, mines, minerals, woods, and all and every appurtenance thereunto belonging, or in any wise appertaining: beginning at three beeches standing on the north bank of Chaplin's fork, being also southwest corner of Ramsey and Coxe's 21,000 acre survey; thence north five hundred and sixty poles, with their line, to two beeches; thence N. 181 poles to a sugar tree and beech; thence W. 380 poles to an elm and beech; thence S. 181 poles to a beech and dogwood, northeast corner to William Kincheloe's four hundred acre survey; thence S. 253 poles, with the lines of said survey, to two honey locusts; thence W. 253 perches to an elm and beech; thence N. 253 perches to three beeches, northwest corner to said survey; thence W. 20 poles to three beeches; thence S. 980 poles to a sugar tree, beech, and poplar, on the north bank of Chaplin's fork; thence up said fork, along the meanders thereof, and binding thereon, to the beginning, containing six thousand six hundred and eighty acres of land: to have and to hold all the said premises hereby granted, with the appurtenances, unto the said Stephen Sicard, his heirs and assigns, to his and their only proper use and behoof for ever; and the said Samuel Robert Marshall, and Rachael his wife, their heirs, all the said tract of land and premises hereby granted, with the appurtenances, unto the said Stephen Sicard, his heirs, executors, administrators, and assigns, against them, the said Samuel Robert Marshall, and Rachael his wife, and their heirs, and against all and every person or persons lawfully claiming or having any estate, right, or interest therein, shall and will warrant, and for ever defend from, by, and under them.

In witness whereof, the parties to these presents have hereunto interchangeably set their hands, and affixed their seals thereto, dated the day and year first above written.

SAMUEL ROBERT MARSHALL, [L. S.]
RACHAEL MARSHALL, [L. S.]

Sealed and delivered in presence of us,
A. VANCLEVE, Jr.,
BENJAMIN POWELL.

There are two hundred acres of this land reserved, which are situated next to William Kincheloe's 400 acres, on the east side. Received, the day of the date of the above written indenture, of the above Stephen Sicard, the full consideration money as above mentioned.

SAMUEL ROBERT MARSHALL.

Witness, A. VANCLEVE, Jr.,
BENJAMIN POWELL.

CITY OF PHILADELPHIA, sct.

Before me, Hilary Baker, mayor of the city of Philadelphia, came Samuel Robert Marshall, and Rachael his wife, the grantors above named, and acknowledged the above indenture to be their act and deed, and desired the same to be recorded as such; and the woman being examined apart from her husband, acknowledged that she signed the same of her free will and accord, and that without the threats of her husband or any other person.

In testimony whereof, I, the said mayor, have hereunto set my hand, and caused the seal of the mayoralty of the said city to be affixed, the 19th day of July, in the year of our Lord one thousand seven hundred and ninety-eight.

[SEAL.]

STATE OF KENTUCKY, sct.

I, Achilles Sneed, clerk of the court of appeals for the State aforesaid, being duly authorized by law to receive, admit, and record deeds and other writings in my office, do hereby certify that the foregoing deed, with the testimonials thereto annexed, were produced to me in my office in Frankfort, on the twenty-third of April, one thousand eight hundred and three, and that the same is truly recorded.

In testimony whereof, I have hereunto subscribed my name and affixed my seal of office, the day and year aforesaid.

[L. S.] ACHILLES SNEED, *C. C. A.*

KENTUCKY, sct.—*Clerk's office of the court of appeals.*

In testimony whereof, that the foregoing pages contain a true copy of the deed and testimonials thereon endorsed, from Samuel R. Marshall and wife to Stephen Sicard, I have hereunto set my name and affixed my seal of office, this 1st day of February, 1823.

[L. S.] ACHILLES SNEED, *C. C. A.*

Instructions, marked I.

1st. That the plaintiff has given no evidence to support the first count upon the demise of Sicard, and none to support the demise from any of the other lessors, except such as are heirs of Joseph Phillips, the patentee.

2d. That if the jury find from the evidence that the patents of Joseph Phillips and Wm. Loring do interfere and lap, as represented in the connected plat, and that the defendants, and those under whom they hold, did enter claiming under said Loring's survey, and took the first possession within the said interference, the said patent of Joseph Phillips being (at the date of such entry and possession taken under Loring's patent) unoccupied by any person holding or claiming under said Phillips's patent, then, and in that case, the possession of the defendants so taken was not limited to their actual enclosure, but was co-extensive with the boundaries by which they claimed.

3d. That if the jury find from the evidence that the possession of the lands in controversy was taken in the lifetime of Joseph Phillips, the ancestor of the lessors of the plaintiff, and adversely to said Phillips; that the defendants, and those under whom they hold, have continued to hold adversely to said Phillips, the ancestor, and his heirs, ever since, and for more than twenty years before the seventeenth day of January, 1822,

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when the second count in the declaration was filed; and shall moreover find that said ancestor, Joseph Phillips, died more than ten years before the said 17th day of January, 1822, when the second count was filed, then the said lessors, the heirs of Joseph Phillips, are barred by the statute of limitation.

UNITED STATES OF AMERICA, 7TH CIRCUIT KENTUCKY DISTRICT, set.

I, John H. Hanna, clerk of the seventh circuit court of the United States of America, in and for the Kentucky district, do hereby certify that the foregoing pages contain a full, true, and complete transcript of the record and proceedings in the cause therein mentioned.

In testimony whereof, I have hereunto subscribed my name and affixed the seal of said court, this 6th day of March, in the year of our Lord one thousand eight hundred and thirty, and in the 54th year of the independence of the United States.

[L. S.] JNO. H. HANNA.